

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

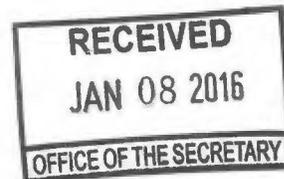
ADMINISTRATIVE PROCEEDING

File No. 3-16678

In the Matter of

Arrin Corporation, *et al.*,

Respondents.



**DIVISION OF ENFORCEMENT'S BRIEF IN
RESPONSE TO COMMISSION'S ORDER DIRECTING
THE FILING OF BRIEFS CONCERNING THE TIMELINESS
OF GUNDAKER/JORDAN AMERICAN HOLDINGS, INC.
(A/K/A JORDAN AMERICAN HOLDINGS, INC.)'S PETITION FOR REVIEW**

Pursuant to the Commission's December 18, 2015 Order, the Division of Enforcement ("Division") submits this brief addressing whether Gundaker/Jordan American Holdings, Inc. (a/k/a Jordan American Holdings, Inc.)'s ("Gundaker's") "petition for review should be dismissed as untimely pursuant to Commission Rule of Practice 410(b)." *Arrin Corp., et al.*, Exchange Act Release No. 76698, at 1 (December 18, 2015). Rule 410(b) provides that "[t]he petition for review of an initial decision shall be filed with the Commission within such time after service of the initial decision as prescribed by the hearing officer pursuant to Rule 360(b) unless a party has filed a motion to correct an initial decision with the hearing officer." Rule 360(b) in turn states that "[t]he initial decision shall also state the time period, not to exceed 21 days after service of the decision, except for good cause shown, within which a petition for review of the initial decision may be filed." The initial decision in this case gave Gundaker 21 days after service to file a petition for review. *See In the Matter of Arrin Corp., et al.*, Initial

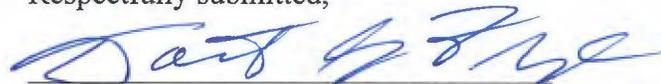
Decision Release No. 909, at 5 (November 2, 2015). Gundaker was served with that initial decision on November 3, 2015.

Because Gundaker did not file a motion to correct an initial decision, it had until November 27, 2015 to file a petition—21 days after service of the initial decision plus three extra days pursuant to Rule 160(b). Gundaker did not file a petition for review by that date, nor did it seek to extend the 21-day deadline under Rule 360(b). Gundaker nonetheless filed what it described as “a petition for review or a motion to correct a manifest error” on December 9, 2015, 12 days after the deadline. Because the Commission’s “Rules of Practice do not provide for late appeals,” Gundaker’s appeal is not timely and should be dismissed. *See Walter V. Gerasimowicz*, Securities Act Release No. 9583, 2014 WL 1826641, at *2 (May 8, 2014).

Although the Rules of Practice allow the Commission to excuse untimely filings based on the interests of justice or good cause, Gundaker has not offered any excuse for its late petition. *See* Rules of Practice 100(c), 161(a). To the contrary, respondent’s untimely petition is the latest in a series of filings wherein it ignores rules and deadlines. *See In the Matter of Arrin Corp., et al.*, Administrative Proceedings Rulings Release No. 3390, at 1 (December 11, 2015) (noting that Gundaker’s purported petition for review that is at issue here “does not appear to have been properly filed with the Office of the Secretary or served on the Division of Enforcement”); *In the Matter of Arrin Corp., et al.*, Administrative Proceedings Rulings Release No. 3212, at 1 (October 9, 2015) (“Although I previously ordered Gundaker to comply with the Rules of Practice, it did not properly file the letter or serve it on the Division, so the Division is not required to file a reply.”); *In the Matter of Arrin Corp., et al.*, Administrative Proceedings Rulings Release No. 3018, at 2 (August 6, 2015) (reminding Gundaker “that papers filed with the Commission should conform with Rules of Practice 151-54”).

For the reasons set forth herein, the Division requests that Gundaker's petition for review be rejected as untimely and that the Initial Decision of Revocation as to Gundaker, entered on November 2, 2015, be declared final.

Respectfully submitted,



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Dated: January 8, 2016

CERTIFICATE OF SERVICE

I hereby certify that I caused true copies of the Brief in Response to Commission's Order Directing Filing of Briefs Concerning the Timeliness of Gundaker/Jordan American Holdings, Inc. (a/k/a Jordan American Holdings, Inc.)'s Petition for Review to be served on the following on this 8th day of January, 2016, in the manner indicated below:

By Email:

The Honorable Cameron Elliot
Administrative Law Judge
Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549-2557
alj@sec.gov

By Overnight Courier and Email:

Gundaker/Jordan American Holdings, Inc.
(a/k/a Jordan American Holdings, Inc.)

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